

Hampton City Schools Policy Manual

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Code of Virginia, as amended, § 2.2-3704
Code of Virginia, as amended, § 2.2-3804
Code of Virginia, as amended, § 16.1-260
Code of Virginia, as amended, § 16.1-305.1
Code of Virginia, as amended, § 16.1-305.2
Code of Virginia, as amended, § 22.1-287
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Code of Virginia, as amended, § 22.1-288.2
Code of Virginia, as amended, § 22.1-289
Code of Virginia, as amended, § 23-2.1:3
Code of Virginia, as amended, § 32.1-36.1
8 VAC 20-720-130
Current Guidelines for the Management of Student’s Scholastic Record
in Virginia Public Schools, Virginia Department of Education
Adopted: February 4, 1987
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Policy Detail

The School Board of the City of Hampton maintains accurate and complete records for every student enrolled in the public schools in accordance with all federal and state laws.

The Superintendent and/or designee(s) is responsible for the collection of data, record maintenance and security, access to, and use of records, confidentiality of personally identifiable information, dissemination of information from records, and destruction of records, including the destruction of personally identifiable information regarding a student with a disability at the request of the parents. The Superintendent and/or designee also provides for notification of all Division personnel of policy and

procedures for management of education records and notification of parents and students of their rights regarding student records, including the right to obtain, upon request, a copy of this policy.

Definitions

For the purposes of this policy, Hampton City Schools uses the following definitions of terms:

Authorized representative – any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 CFR § 99.31(a)(3) to conduct, with respect to federal- or state-supported education programs, any audit or evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

Directory information - information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include information such as the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, and the most recent educational institution attended. Directory information may not include the student's social security number. Directory information may include a student identification number or other unique personal identifier used by a student for accessing or communicating in electronic systems if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user or a student ID number or other unique personal identifier that is displayed on a student ID badge, if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity such as a PIN or password or other factor known or possessed only by the authorized user.

Early childhood education program – a Head Start program or an Early Head Start program, a state licensed or regulated child care program, or a program that serves children from birth through age six that addresses the children's cognitive, social, emotional, and physical development and is a state prekindergarten program, a program under section 619 or Part C of the Individuals with Disabilities Education Act, or a program operated by a local educational agency.

Education program - any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

Education records - any record (in handwriting, print, computer media, video or audio tape, film, microfilm, microfiche or other medium) maintained by the Division or an agent of the Division that contains information directly related to a student, except:

1. Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to another person except a temporary substitute for the maker of the record.
2. Records created and maintained for law enforcement purposes by the HCS School Resource Officer, if any. A law enforcement unit is an individual, department or office of the Division that is authorized to enforce any state or federal law, report enforcement matters to appropriate authorities or maintain the physical security and safety of the Division.
3. An employment record that is used only in relation to a student's employment by the Division.
4. Records created or received after an individual is no longer in attendance and that are not directly related to the individual's attendance as a student.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.
6. Any electronic information, such as email, even if it contains personally identifiable information regarding a student, unless a printed copy of the electronic information is placed in the student's file or is stored electronically under an individual student's name on a permanent and secure basis for the purpose of being maintained as an educational record. For purposes of this policy, electronic information that exists on a back-up server, a temporary archiving system, or on a temporary basis on a computer is not an education record and is not considered as being maintained.

Eligible student - a student who has reached age 18.

Parent - either natural parent of a student, a guardian, or an individual acting as a parent or guardian in the absence of the student's parent or guardian.

Student - any person who is or has been in attendance at Hampton City Schools for whom the Division maintains education records or personally identifiable information.

Dissemination and Maintenance of Records About Court Proceedings

Adjudications

The Superintendent shall disseminate the notice or information regarding an adjudication of delinquency or conviction for an offense listed in Va. Code § 16.1-260.G. contained in a notice received pursuant to § 16.1-305.1 of the Code of Virginia, 1950, as amended, to school personnel responsible for the management of student records and to other relevant school personnel, including, but not limited to, the building administrator of the school in which the student is enrolled. The building administrator shall further disseminate such information to licensed instructional personnel and other school personnel who (1) provide direct educational and support services to the student and (2) have a legitimate educational interest in such information.

A parent, and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260 was based and the reasons therefor. The parent shall also be notified of his or her right to review, and to request an amendment of, the student's scholastic record.

Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260 received by the Superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the School Board takes disciplinary action against a student based upon an incident that formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260, the notice shall become a part of the student's disciplinary record.

Petitions and Reports

The Superintendent shall not disclose information contained in or derived from a notice of petition received pursuant to Va. Code § 16.1-260 except as follows:

- If the juvenile is not enrolled as a student in a public school in the Division to which the notice or report was given, the Superintendent shall promptly notify the intake officer of the juvenile court in which the petition was filed or the director of the department that sent the report and may forward the notice of petition or report to the Superintendent of the Division in which the juvenile is enrolled, if known.
- Prior to receipt of the notice of disposition in accordance with Va. Code § 16.1-305.1 the Superintendent may disclose the fact of the filing of the petition and the nature of the offense to the building administrator of the school in which the student is enrolled if the Superintendent believes that disclosure to school personnel is necessary to ensure the physical safety of the student, other students, or school personnel within the Division. The building administrator may further disseminate the information regarding a

petition, after the student has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the student and need of the information to ensure physical safety or the appropriate educational placement or other educational services.

- If the Superintendent believes that disclosure of information regarding a report received pursuant to Va. Code § 66-25.2:1 to school personnel is necessary to ensure the physical safety of the student, other students, or school personnel, he may disclose the information to the building administrator of the school in which the student is enrolled. The building administrator may further disseminate the information regarding such report only to school personnel as necessary to protect the student, the subject or subjects of the danger, other students, or school personnel.

Annual Notification

The Division annually notifies parents and eligible students of their rights under the Family Educational Rights and Privacy Act (FERPA) including

- the right to inspect and review the student's educational records and the procedure for exercising this right;
- the right to request amendment of the student's educational records that the parent believes to be inaccurate, misleading or in violation of the student's privacy rights and the procedure for exercising this right;
- the right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent;
- the type of information designated as directory information and the right to opt out of release of directory information;
- that the Division releases records to other institutions that have requested the information and in which the students seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;
- the right to opt out of releasing the student's name, address, and phone number to military recruiters or institutions of higher education that request such information;
- a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest; and

- the right to file complaints with the Family Policy Compliance Office in the United States Department of Education concerning the Division's alleged failure to comply with FERPA.

Procedure to Inspect Education Records

Parents of students or eligible students may inspect and review the student's education records within a reasonable period of time, which shall not exceed 45 days, and before any meeting regarding an IEP or hearing involving a student with a disability. Further, parents shall have the right to a response from the Division to reasonable requests for explanations and interpretations of the education record.

Parents or eligible students should submit to the student's school Building Administrator a written request that identifies as precisely as possible the record or records he or she wishes to inspect.

The Building Administrator will make the needed arrangements for access as promptly as possible and notify the parent or eligible student of the time and place where the records may be inspected. Access must be granted within five (5) business days of a written request. If impossible to meet that date, the requesting party shall be informed and seven (7) additional business days shall be added.

When a record contains information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the portion of the record that pertains to other students.

Copies of Education Records

The Division will not routinely provide a parent or eligible student a copy of the student's education record unless failure to do so would effectively prevent the parent or eligible student from exercising the right to inspect and review the records.

Fees for Copies of Records

If copying the records is necessary, the fee for copies will be \$.25 per page. The actual cost of copying time and postage will be charged. The Division does not charge for search and retrieval of the records. The Division does not charge a fee for copying an Individualized Education Plan (IEP) or for a copy of the verbatim record of a hearing conducted in accordance with the State Board of Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Disclosure of Education Records

The Division shall disclose education records or personally identifiable information contained therein only with the written consent of the parent or eligible

student except as authorized by law. The Division may disclose education record information without consent:

1. To school officials who have a legitimate educational interest in the records.

A school official is:

- A person employed by the Division as an administrator, supervisor, instructor, or support staff member.
- A person appointed or elected to the School Board.
- A person employed by or under contract to the Division to perform a special task, such as an attorney, auditor, medical consultant, or therapist.
- A contractor, consultant, volunteer, or other party to whom the Division has outsourced services or functions for which the Division would otherwise use employees and who is under the direct control of the Division with respect to the use and maintenance of education records.

A school official has a legitimate educational interest if the official is:

- Performing a task that is specified in his or her position description or by a contract agreement.
- Performing a task related to a student's education.
- Performing a task related to the discipline of a student.
- Providing a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.

2. To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. If records or information are released under this provision, the student's parents will be notified of the release, receive a copy of the record(s), if they so desire, and have an opportunity for a hearing to challenge the content of the record.

3. To certain officials of the U.S. Department of Education, the United States Attorney General, the Comptroller General, and state educational authorities, in connection with certain state or federally supported education programs and in accordance with applicable federal regulations.

4. In connection with a student's request for or receipt of financial aid as necessary to determine the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid.

5. For the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil prior to adjudication. The Building Administrator or his

designee may disclose identifying information from a pupil's scholastic record to state or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties; an officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency; attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the persons to whom the records are to be disclosed shall certify in writing to the Building Administrator or his designee that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the pupil or by such pupil if the pupil is eighteen years of age or older.

6. To organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction. The studies must be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information. The information must be destroyed when it is no longer needed for the purposes for which the study was conducted. The School Board must enter into a written agreement with the organization conducting the study which

- specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study stated in the written agreement;
- requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and
- requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

7. To accrediting organizations to carry out their functions.

8. To parents of an eligible student who claim the student as a dependent for income tax purposes.

9. To the entities or persons designated in judicial orders or subpoenas as specified in FERPA.

10. To appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. If the Division releases information in connection with an emergency, it will record the following information:

- the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
- the parties to whom the Division disclosed the information.

11. To an agency caseworker or other representative of a state or local child welfare agency or tribal organization who has the right to access a student's case plan when such agency or organization is legally responsible for the care and protection of the student.

12. Directory information so designated by the Division.

13. When the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14071, and the information was provided to the Division under 42 U.S.C. § 14071 and applicable federal guidelines.

The Division will use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom it discloses personally identifiable information from education records.

Military Recruiters and Institutions of Higher Learning

The Division will provide, on request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released without prior written parental consent. The Division will notify parents of the option to make a request and will comply with any request.

The Division will provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students.

Record of Disclosure

The Division shall maintain a record, kept with the education records of each student, indicating all individuals (except school officials who have a legitimate educational interest in the records), agencies, or organizations that request or obtain

access to a student's education records. The record will indicate specifically the legitimate interest the party had in obtaining the information. The record of access will be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations that audit the operation of the system.

The requirements related to records of disclosure stated above do not apply to disclosures made pursuant to an ex parte order issued by a court at the request of the United States Attorney General (or any federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) seeking to collect education records relevant to an authorized investigation or prosecution of international terrorism as defined in 18 U.S.C. § 2331 or other acts listed in 18 U.S.C. § 2332b(g)(5)(B).

Personal information will only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party permits access to information, or fails to destroy information, the Division will not permit access to information from education records to that third party for a period of at least five (5) years.

Family Educational Rights and Privacy Act (FERPA) Notice for Directory Information

The Family Educational Rights and Privacy Act (FERPA), a federal law, requires that Hampton City Schools, with certain exceptions, obtain written consent prior to the disclosure of personally identifiable information from a child's education records. However, Hampton City Schools may disclose appropriately designated "directory information" without written consent, unless advised by the parent to the contrary in accordance with Division procedures. The primary purpose of directory information is to allow Hampton City Schools to include this type of information from a child's education records in certain school publications. Examples include:

1. A playbill, showing the student's role in a drama production;
2. The annual yearbook;
3. Honor roll or other recognition lists;
4. Graduation programs; and
5. Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to

provide military recruiters, upon request, with three directory information categories--names, addresses and telephone listings--unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.

If a parent/guardian does not want his/her child photographed, videotaped and/or audiotaped during school-sponsored activities and/or learning experiences, or does not want his/her child's intellectual property published, produced and/or displayed, he/she must opt out.

If parents do not want Hampton City Schools to disclose directory information from their child's education records without prior written consent, you must notify the Director of School Counseling, 1 Franklin Street, Hampton, VA 23669, within thirty (30) days after the beginning of the school year or within thirty (30) days of enrolling in school.

Parents and eligible students may not use the right to opt out of directory information disclosures to 1) prevent disclosure of the student's name, identifier, or institutional email address in a class in which the student is enrolled; or 2) prevent an educational agency or institution from requiring the student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information designated as directory information and that has been properly designated as directory information.

Hampton City Schools has designated the following information as directory information:

• Student's name	• Participation in officially recognized activities and sports
• Address	• Weight and height of members of athletic teams
• Telephone listing	• Degrees, honors, and awards received
• Photograph	• The most recent educational agency or institution attended
• Date and place of birth	• Grade level
• Major field of study	• Dates of attendance

Correction of Education Records

The procedures for the amendment of records that a parent or eligible student believes to be inaccurate are as follows.

1. Parents or the eligible student must request in writing that the Division amend a record. In so doing, they should identify the part of the record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy or other rights.

2. The Division shall decide whether to amend the record in accordance with the request within a reasonable period of time. If it decides not to comply, the Division shall notify the parents or eligible student of the decision and advise them of their right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's rights.

3. Upon request, the Division shall arrange for a hearing, and notify the parents or eligible student, reasonably in advance, of the date, place, and time of the hearing. The hearing shall be held within a reasonable period of time after the request.

4. The parent or eligible student may, at his or her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

5. The hearing shall be conducted by a hearing officer who is a disinterested party; however, the hearing officer may be an official of the Division. The parents or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records in accordance with FERPA.

6. The Division shall prepare a written decision that will include a summary of the evidence presented and the reasons for the decision within a reasonable period of time after the hearing. The decision will be based solely on the evidence presented at the hearing.

7. If the Division decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, it shall amend (including expungement) the record and notify the parents or eligible student, in writing, that the record has been amended.

8. If the Division decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, it will notify the parents or eligible student that they have a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision. The statement will be maintained as part of the student's education records as long as the contested portion is maintained and disclosed whenever the Division discloses the portion of the record to which the statement relates.

Confidentiality of HIV and Drug and Alcohol Treatment Records

The Division complies with the confidentiality requirements of Virginia Code § 32.1-36.1, providing for the confidentiality of records related to any test for Human Immunodeficiency Virus (HIV). In addition, the Division shall maintain confidentiality of drug and alcohol treatment records as required by federal and state law.

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2/4/1987

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10/5/1990, 12/7/1994, 6/6/2001, 5/5/2010, 3/21/2012, 5/2/2012, 12/18/2013, 3/19/2014

LEGAL REFS.:

18 U.S.C. §§ 2331, 2332b

20 U.S.C. §§1232g, 7908

42 U.S.C. § 290dd-2

34 C.F.R. 99.3, 99.7, 99.10, 99.20, 99.21, 99.22, 99.31, 99.32, 99.33, 99.34, 99.35,
99.36, 99.37

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Current Guidelines for the Management of Student's Scholastic Record in Virginia
Public Schools, Virginia Department of Education

CROSS REF.:

JBAA – SECTION 504 NONDISCRIMINATION POLICY AND GRIEVANCE
PROCEDURES

